

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Michael D. Cook,)
Plaintiff,) C/A No. 6:15-2431-MBS
vs.)
Carolyn W. Colvin, Acting Commissioner)
of Social Security,)
Defendant.)

)

ORDER

Plaintiff Michael D. Cook filed the within action on June 16, 2015, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's claims for disability insurance benefits and supplemental security income benefits.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling. On July 7, 2016, the Magistrate Judge issued a Report of Magistrate Judge in which he determined that (1) the administrative law judge (ALJ) did not properly consider the opinion of Dr. Garde, a consultative examiner; and (2) the hypothetical presented to the vocational expert differed from the residual functional capacity assessment. The Magistrate Judge therefore recommended that the case be remanded for further administrative proceedings. Plaintiff filed no objections to the Report and Recommendation. On July 25, 2016, the Commissioner filed a Notice of Not Filing Objections to the Report and Recommendation of the Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo

determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The case is **reversed** pursuant to sentence four of 42 U.S.C. § 405(g) and **remanded** to the Commissioner for further consideration as set forth herein and in the Report of Magistrate Judge.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

July 28, 2016